

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BARBARA COOKE, ¹	§	
	§	No. 198, 2011
Plaintiff Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in and
v.	§	for Kent County
	§	
COUNTRYWIDE HOME LOANS	§	
INC., now known as BANK OF	§	C.A. No. K09C-11-038
AMERICA,	§	
	§	
Defendant Below,	§	
Appellee,	§	
	§	
and	§	
	§	
CHESTNUT RUN FEDERAL	§	
CREDIT UNION,	§	
	§	
Defendant/Counterclaim	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: June 14, 2011
Decided: September 8, 2011

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 8th day of September 2011, after careful consideration of the appellant's opening brief and the joint motion to affirm filed by the appellees, it appears to the Court that:

¹ The caption on appeal has been corrected to clarify the parties' posture in the Superior Court.

(1) On November 30, 2009, the plaintiff/appellant, Barbara Cooke (“Cooke”), filed a complaint in the Superior Court seeking “relief and . . . to compel defendants to produce and comply with plaintiff’s demands.” Fairly summarized, Cooke sought the discharge of a debt.

(2) In response to Cooke’s complaint, each of the defendants/appellees filed an answer. Moreover, defendant/appellee-Chestnut Run Federal Credit Union (“Chestnut Run”) filed a counterclaim against Cooke.

(3) On May 18, 2010, Chestnut Run filed a motion for summary judgment. On September 1, 2010, defendant/appellee-Countrywide Home Loans, Inc. n/k/a Bank of America (“BOA”) filed a motion to dismiss Cooke’s complaint. By order dated December 9, 2010, the Superior Court granted summary judgment to Chestnut Run and BOA (“the December 9 order”).²

(4) On January 4, 2011, Cooke filed a motion seeking to vacate the December 9 order “on the basis of fraud on the court and new evidence.” In its response opposing Cooke’s motion to vacate, Chestnut Run sought

² See *Cooke v. Countrywide Homes Loans, Inc.*, 2010 WL 5556175 (Del. Super.) (adopting reasoning and conclusions in *Poblete v. Goldberg*, 680 F.Supp.2d 18 (D.D.C. Dec. 29, 2009)).

clarification of the December 9 order on the basis that the order had not addressed Chestnut Run's counterclaim against Cooke.

(5) By order dated March 25, 2011, the Superior Court denied Cooke's motion to vacate and modified the December 9 order so as to rule on Chestnut Run's counterclaim. Having carefully considered the parties' positions on appeal, the Court concludes that it is manifest on the face of Cooke's opening brief that the judgment of the Superior Court should be affirmed on the basis of the December 9 order as modified by the court's order of March 25, 2011.³

NOW, THEREFORE IT IS ORDERED that the joint motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

³ *Id.* A copy of the court's March 25, 2011 order is attached as Exhibit A.